

STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM

This comment and response form contains comments from the July 11, 2012, meeting of the State Board of Education when the draft amendments were presented at Proposal Level.

Topic:	Charter Schools	Meeting Date:	December 5, 2012
Code Citation:	N.J.A.C. 6A:11	Level:	Adoption
Division:	Division of Charter Schools, School Choice, and Educational Technology	Completed by:	Office of Charter Schools

Summary of Comments and Agency Responses:

The following is a summary of the comments received from members of the public received after July 13, and the department's responses. Each commenter is identified at the end of the comment by a number which corresponds to the following list:

1. Elizabeth Athos, Esq., Education Law Center
2. Jesse Gennarelli
3. Kathryn Rogers
4. Jeanne Olsen
5. Dolores Muscelli
6. Patrick Carroll
7. Marilyn Sowienksi
8. Barbara Chaudhery
9. Sean Dugan
10. Michael Pinches
11. Maureen Smith
12. Eric Stinson
13. Stacey Jackson-Bacote
14. Arleen Mosley
15. Sylvia Hiatt
16. Betty Pallis
17. Charles Ferrer
18. Breandann McGovern
19. Erin Sullivan
20. Marie Adase
21. Henry Halpern
22. Alex Vallei
23. Theresa Watson
24. Patricia Barker
25. Sarah Anderson
26. Stephanie Tang

27. Margarita Gizas
28. Joyce Pugliese
29. Jim Tomaselli
30. Jason Jones
31. Peggy Moore
32. Kathryn Krimmel
33. Sioux Zenakis
34. Margaret Fekete
35. Rebecca Selby
36. Barbara Carriere
37. Hong Donaldson
38. L Albanese
39. Nina Lazar
40. Gunta Alexander
41. Shelli Brosh
42. David Silverman
43. Rita Reisman
44. Mary L Harris
45. Rebecca Emmel
46. Victoria Ridley
47. I B
48. Peggy Novicki
49. Don Parillo
50. Wendy Zwoboda
51. Tina Miller
52. Susanne Nowack
53. Robert Reeve
54. Shari Abramowitz
55. Scott Baker
56. Debbie Yao
57. Chuck Fischer
58. Maureen Capuzzi
59. Mary Kate McNiel
60. Steven Kapsalakis
61. Joseph DiGiacomo
62. Rebecca Glennon
63. Ellen Jaspan
64. Ashley Laird
65. Patricia Frisby
66. Shirley Kane
67. Sakeenah Daniels
68. Denise Capute
69. Crystal Brown
70. Mary Jane Murray
71. Ashton Bailey
72. Salem Elkholy
73. Josephine Paige

- 74. Mary Cairns
- 75. Ryan Gittler
- 76. Yolette Pompilus
- 77. Kevin McNulty
- 78. Laura McNulty
- 79. Laura Baker
- 80. Roberta Bernhard

1. **COMMENT:** The commenter expressed opposition to the proposed amendments indicating that they are contrary to “clear legislative intent.” (1)

RESPONSE: The proposed amendments are consistent with the stated intent of the Charter School Program Act of 1995, pursuant to N.J.S.A. 18A:36A-2, to promote comprehensive educational reform by providing for the implementation of a variety of educational approaches that are in the best interests of the children of the State.

2. **COMMENT:** The commenter states that the proposed amendments to the charter school regulations are contrary to N.J.S.A. 18A:36A-16e which refers to a report submitted by the Commissioner to the Governor, Legislature and State Board of Education in 2001 and which states that the report should include recommendations for changes in the structure of the program should the Commissioner deem the recommendations advisable, and that the Commissioner may not implement any recommended expansion, modification, or termination of the program until the Legislature acts on such recommendations. (1)

RESPONSE: The proposed amendments to the regulations are within the regulatory authority granted by the Charter School Program Act to the Commissioner and State Board. Previous rulemaking and adoption of revisions to the charter school regulations confirm that the interpretation set forth by the commenter is without precedent.

3. **COMMENT:** The commenter states that that implementing virtual charter schools violates the Charter School Program Act of 1995, and that without the adoption of rigorous accountability measures, the approval of virtual charter schools is not justifiable. (1)

RESPONSE: The proposed amendments to the charter school regulations include increased accountability measures for all charter schools, articulated in the Performance Framework. Pursuant to N.J.S.A. 18A:36A-3, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charter schools. The proposed amendments fall within that authority.

4. **COMMENT:** The commenter expressed concern that the proposed amendment that would allow proven, high quality charter schools to expand their capacity to serve additional students by establishing satellite campuses in “priority” districts violates the charter school legislation. (1)

RESPONSE: Providing for additional high quality charter school seats in urban districts falls within the Commissioner’s regulatory authority and is consistent with the stated intent of the Charter School Program Act of 1995, to improve pupil learning; increase the educational choices available to parents and students; and to encourage the use of different and innovative learning

methods . Pursuant to N.J.S.A. 18A:36A-3 and 18A:36A-4, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charter schools. The proposed amendments fall within that authority.

5. COMMENT: The commenter expressed concern that the proposed amendment to enable proven charter schools to open satellite campuses circumvents the requirement of N.J.S.A. 18A:36A-5j that a charter school must apply and be approved for a particular physical facility. **(1)**

RESPONSE: N.J.S.A. 18A:36A-5j requires that a physical facility be identified in a charter school's application. Facilities identified by an amendment request for a satellite campus are subject to the same review and approval procedures as for new charter school facilities, pursuant to the proposed amendment at N.J.A.C. 6A:11-2.1(i). Pursuant to N.J.S.A. 18A:36A-3 and 18A:36A-4, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charter schools. The proposed amendments fall within that authority.

6. COMMENT: The commenter states that the proposed amendment is not consistent with the requirement that the appropriate local authorities be notified of a charter school application. **(1)**

RESPONSE: The proposed amendments at N.J.A.C. 6A:11-2.1 and N.J.A.C. 6A:11-2.6(a)1iv identify a satellite campus as an additional facility for which a charter school may apply in the form of an amendment to its charter. Pursuant to N.J.A.C. 6A:11-2.6 all amendments must be submitted to the board(s) of education of the school district(s) of residence of the charter school. Amendment requests for a satellite campus will be submitted to the board of education where the satellite campus will be located. There is no inconsistency with the current requirement that the appropriate local authorities be notified of a charter school application, as the proposed amendment relates to amendments to a charter, not a new application.

7. COMMENT: The commenter states that the proposed amendment to enable charter schools to apply for an amendment to open a satellite campus violates the charter school statute pursuant to N.J.S.A. 18A:36A-4e. **(1)**

RESPONSE: The statute does not provide limitations on the types of amendments to a charter that may be approved. N.J.S.A. 18A:36A-4e presents an amendment as a response to a particular situation within a district, but does not address amendments as a statutory entity. Precedent for amendments has been previously established in regulations pursuant to N.J.A.C. 6A:11-2.6. The proposed amendments to the regulation are consistent with the intent of the charter school statute to encourage innovation and fall within the authority of the Commissioner to establish a charter school program

8. COMMENT: The commenter is concerned that the proposed amendments to the regulations do not require that amendment applications be sent to the same authorities as required for charter school applications pursuant to N.J.S.A. 18A:36A-4c. **(1)**

RESPONSE: The submission of the amendment request to the board of education of the district(s) residence, pursuant to N.J.A.C. 6A:11-2.6(a)1, is not altered by the proposed

amendments. The citation of N.J.S.A. 18A:36A-4c does not apply as that subsection refers to charter school applications.

9. COMMENT: The commenter expressed concern that the proposed amendment to the regulations that does not preclude a change to a charter school's mission or goals will conflict with the statutory requirement for the Commissioner to annually assess the degree to which a charter school is achieving its goals. **(1)**

RESPONSE: The annual report to the Commissioner, pursuant to N.J.A.C. 6A:11-2.2(a)1.i, requires charter schools to include evidence that the school is achieving the mission, goals and objectives of its charter as measured against the Performance Frameworks.

10. COMMENT: The commenter states that the proposed amendment to the definition of "eligible applicant" to include teachers from anywhere in the state appears to conflict with the intent of the charter school statute. The commenter cites N.J.S.A. 18A:36A-4a and asserts that the intent of the legislation is that the "teaching staff members" must be from the district of residence. The commenter cites N.J.S.A. 18A:36A-14 as supportive of the intent of the N.J.S.A. 18A:36A-4a. **(1)**

RESPONSE: The amended definition is consistent with the stated intent of the Charter School Program Act of 1995, to promote comprehensive educational reform by providing for the implementation of a variety of educational approaches to be in the best interests of the children of the State. The proposed amendment does not conflict with N.J.S.A. 18A:36A-4, which defines who may establish a charter school and states that, "[a] charter school may be established by teaching staff members..." and which does not include the requirement that the teaching staff members be employed by the district of residence, a point which is intended to be made clear by the amendment to the definition. N.J.S.A. 18A:36A-14(d), which is cited by the commenter, refers to teachers employed by an established and approved charter school, not to teaching staff members wishing to establish a charter school and is therefore not relevant to the concerns expressed by the commenter.

11. COMMENT: The commenter asserts that the proposed definition for Performance Framework will result in unlawful agency action on the part of the Department in attempting to enforce the proposed regulations that refer to the February 2012 No Child Left Behind waiver of Adequate Yearly Progress measures as the components of the waiver have not been codified. **(1)**

RESPONSE: The academic measures in the Performance Framework are based on national best practice and are aligned with the NCLB waiver for consistency and practicality; however, the Performance Framework is an independent set of measures that fall within the authority of the Department to evaluate the performance of charter schools pursuant to N.J.S.A. 18A:36A-16.

12. COMMENT: The commenter expressed concern that the Performance Framework, as defined in the proposed amendment to N.J.A.C. 6A:11-1.2, does not specify components for personnel and governance as identified in the New Jersey Quality Single Accountability Continuum (NJQSAC). **(1)**

RESPONSE: There is no regulatory or statutory requirement for a system of accountability for

charter schools, as they are exempt from NJQSAC pursuant to N.J.A.C. 6A: 30-1.1. The Performance Framework, which is based on nationally recognized best practices, provides a comprehensive accountability measure for all charter schools and is outcome based to assess positive academic achievement for all students.

13. COMMENT: The commenter asserts that the inclusion of “charter agreement” in the proposed amendments is redundant of N.J.S.A. 18A:36A-11. **(1)**

RESPONSE: N.J.S.A. 28A:36A-11 indicates that a charter school must operate in accordance with its charter; however terms and a description of a charter are not included in the statute. The proposed amendment provides the definition of what constitutes a “charter” as part of the Department’s initiative to increase and make transparent accountability measures and performance management systems for charter schools. Such accountability measures which will be included as part of the charter agreement, and are not items explicitly defined in an individual charter.

14. COMMENT: The commenter states that the proposed definition of “educator evaluation system” is inadequate as it does not clearly define standards and does not explicitly state that the evaluation of educators is subject to approval by the Department. **(1)**

RESPONSE: Pursuant to the proposed regulations at N.J.A.C. 6A:10-1.1(b), teacher evaluation in charter schools is overseen by the Office of Charter Schools. Nothing in the proposed amendments to the charter school regulations conflicts with this provision.

15. COMMENT: The commenter states that the proposed amendments do not provide for an educator evaluation system that is equivalent to the proposed regulations to implement the TEACHNJ Act. The commenter asserts that not requiring an equivalent educator evaluation system conflicts with the intention of the charter school statute and cites N.J.S.A. 18A:36A-14c, requiring teacher certification in charter schools, as evidence of the legislative intent. **(1)**

RESPONSE: There is no statutory requirement that an equivalent educator evaluation system for charter schools be established. Exempting charter schools from the requirements of tenure, pursuant to N.J.S.A. 18A:36A-14e, supports the intent of the proposed amendments to provide charter schools with increased autonomy over their teaching staff while requiring increased accountability for student outcomes. N.J.S.A. 18A:36A-2 identifies the intent of the charter school legislation as establishing a new form of accountability for schools and that evaluating such schools will be by the measurement of learning outcomes.

16. COMMENT: The commenter asserts that the wording change in the proposed amendment to N.J.A.C. 6A:11-2.2(a)1iii from requiring a description of the “attainment” of Core Content Curriculum Standards to “evidence of a curriculum that is compliant” with the Core Content Curriculum Standards substantively changes the requirements for the annual report rather than the Department’s assertion that it is a stylistic change. **(1)**

RESPONSE: Pursuant to N.J.S.A. 18A:36A-16b the annual report is to be submitted in a form prescribed by the Commissioner. Such change as described by the commenter falls within the parameters of the statute and ensures that the subsection is consistent with the other changes to

the annual report requirements intended to simplify and streamline the annual reporting process. The Department does not agree that requesting a description of attainment is a substantive change or differs significantly from requesting evidence of compliance, as both phrases require that a charter school provide, in writing, information on how the Core Content Curriculum Standards are being achieved.

17. COMMENT: The commenter expressed concern that the revised guidelines for streamline tenure have not yet been promulgated. (1)

RESPONSE: The proposed amendments to the charter school regulations regarding streamline tenure will soon be promulgated as Commissioner's regulations.

18. COMMENT: The commenter expressed concern that the proposed regulations will undermine local democratic control of the public education system by increasing the Commissioner's authority and give the Commissioner unlimited ability to disregard community wishes. (3-80)

RESPONSE: Pursuant to *N.J.S.A. 18A:36A-3*, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charters to charter schools. The proposed amendments to the regulations fall within that authority. The Charter School Program Act provides for all processes afforded a local district in the Department's review of a potential charter school. The statute provides for notice and opportunity to be heard on the application and provides for an appeal of the Commissioner's decision on the grant of a charter. The proposed regulations provide 90 days in the aggregate for school districts to receive public comment and submit comments on new charter school applications, an increase of 30 days over the previous regulations and the statutory mandate. Moreover, in response to the comments received from stakeholders, the proposed amendments are being modified to permit districts that may not have had an opportunity to submit comments on the Phase One application within the initial 30 day response timeline, to submit any comments on Phase One along with those for Phase Two. All comments will be reviewed and considered by the Commissioner prior to approval or denial of an application. The proposed regulations demonstrate an increased willingness to gain input from the community.

19. COMMENT: The commenter indicated that the proposed regulations would enable virtual schools to apply for a charter and stated that virtual charter schools are not permitted under current charter school legislation. (2, 3-80)

RESPONSE: The proposed amendments to the charter school regulations fall within the regulatory authority granted by the Charter School Program Act to the Commissioner and State Board. Each charter school applicant is evaluated on the merits of the application and the capacity of the founders to establish and operate a high quality charter school that complies with all applicable federal and state statutes and regulations, and that demonstrates the ability to achieve outcomes established by the Performance Framework.

20. COMMENT: The commenter expressed concern that virtual schools underperform traditional schools. (2, 3-80)

RESPONSE: Applicants for charter schools, whether traditional or virtual, undergo a rigorous and extensive assessment process before being granted a charter. The evaluation of charter school applicants includes close scrutiny of the school's mission, vision, educational program, curriculum development, student assessment strategies, approach to obtaining high student achievement, organizational and governance soundness and aptitude, financial viability and ability to comply with all applicable Federal and State statutes and regulations. The proposed amendments include additional accountability measures and require consistent school and individual student achievement growth over time. All charter schools must meet the goals and objectives established by the Department in order to maintain their charters.



State of New Jersey

DEPARTMENT OF EDUCATION

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TRENTON, NJ 08625-0500

**Adoption Level
December 5, 2012**

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHRISTOPHER D. CERF
Commissioner

TO: Members, State Board of Education

FROM: Christopher D. Cerf
Commissioner

SUBJECT: N.J.A.C. 6A:11, Charter Schools

REASON FOR
ACTION: Amendments

SUNSET DATE: May 10, 2014

Summary

The Department of Education (Department) proposes to amend N.J.A.C. 6A:11 as noted in this summary. The proposed amendments were developed with input from the Governor's Educational Transformation Task Force and are designed to increase quality instruction, improve academic achievement of students, and increase the availability of high quality educational choices for New Jersey students. The proposed amendments are aligned with the Department's mission and the State Board of Education's strategic plan in that they will enable charter schools to become innovative models of educational excellence. Charter schools can drive change and increase academic achievement through multiple, nontraditional paths of learning, while offering quality educational choices for New Jersey's families.

Specifically, the Department proposes to amend the regulations to increase accountability measures for charter schools and to clearly delineate processes and procedures for application, renewal, closure and evaluation. The proposed amendments are being presented to foster an environment in which quality charter schools can operate and expand. In addition, the amendments define specific terms as related to the all phases of the charter life cycle.

The Department proposes to amend this subchapter as follows:

Subchapter 1. General Provisions

N.J.A.C. 6A:11-1.1 Purpose

Amendments are proposed to update an expired citation regarding New Jersey Administrative Code (N.J.A.C.) that governs the rules for conducting the financial operations of the charter schools from N.J.A.C. 6A:23-9 to N.J.A.C. 6A:23A-22. The name of the subsection has

been changed, and Chapter 23 is obsolete. An amendment is proposed at N.J.A.C. 6A:11-1.1(b) for stylistic reasons (remove the words “of Education”) and other grammatical improvements.

N.J.A.C. 6A: 11-1.2 Definitions

Amendments are proposed to the definition of “Administrator” for grammatical improvement.

An amendment is proposed to the definition of “Approval” (removing the term “of a charter”) for stylistic purposes. The citation is changed to correspond to the recodification required by additional proposed amendments.

An amendment is proposed to include a definition of “charter agreement.” A charter agreement is a contract that establishes performance criteria for the charter school and provides measurable goals by which the Department will assess charter schools. Currently there is no charter contract. This amendment will enable the Department to hold charter schools to higher levels of accountability.

Amendments are proposed to the definition of “charter school” for grammatical improvement.

An amendment is proposed to include a definition of “demonstrable experience” to clarify eligible participants in the expedited application round.

An amendment is proposed to the definition of “early action” to rename it “expedited action,” and to change the date for a response to the application from January 15 to February 15. “Expedited” more clearly describes the increased pace of this round of the application process. The date change enables reviewers to more carefully consider the applications in light of the expedited timeline.

An amendment is proposed to include a definition for “educator evaluation system” to ensure consistency with the New Jersey Educator Effectiveness Task Force recommendations for improving student achievement by instituting educator evaluation systems in New Jersey schools.

An amendment is proposed to the definition of “eligible applicant” to include the term “from anywhere in the State” to expand the pool of applicants and thereby to potentially increase the number of high quality charter school seats in New Jersey. The definition was changed for eligible parents of children attending school in the district of “residence” rather than “board of education” for clarification purposes.

An amendment is proposed to the definition of “final granting of a charter” for stylistic purposes. The rule cross-reference is amended to correspond to the recodification required by additional proposed amendments.

Amendments are proposed to update an expired rule cross-reference by revising the reference in the definition of the term “GAAP” from N.J.A.C. 6A:23-2.1 to N.J.A.C. 6A:23A-16.1 since Chapter 23 is obsolete.

An amendment is proposed to the definition of “lead person” for grammatical improvement.

An amendment is proposed to add the definition of “Performance Framework.” The Performance Framework establishes the academic, fiscal, and operational performance indicators that will guide evaluations of each charter school. The Performance Framework, based on nationally recognized best practices, will provide a consistent platform for evaluating charter school quality and is the basis for charter school contracts and for application, annual review and renewal criteria.

The Department proposes to amend this section by deleting the definition of “panel of six permanent arbitrators.” The Department has determined that Chapter 3 is the proper location for all tenure-related regulations.

An amendment is proposed to the definition of “preparedness visit” to include the word “facility” to ensure that the review includes all requisite facility issues, and to add language to further define the purpose of the visit.

An amendment is proposed to add a definition of “qualified applicant.” This term is consistent with the proposed “two phase” process of reviewing new charter applications that is designed to focus on high quality charter school proposals and quickly eliminate applications that do not meet the Department’s standards. A qualified applicant has met the standards established by the Department in the first phase of the application review process.

The Department proposes to add the definition of “qualified founder.” The definition describes the types of individuals who may establish a charter school pursuant to N.J.S.A. 18A:36A-4.

An amendment is proposed to the definition of “revocation” for stylistic purposes.

An amendment is proposed to add a definition of “satellite campus.” Allowing charter schools to amend their charters to open a satellite campus, in a district with a priority school or in a former Abbott District as of July 1, 2012, will enable proven, high quality charter schools to expand their capacity to serve additional students by operating an additional facility.

An amendment is proposed to add a definition of “school closure protocols,” which establish a set of procedures that will provide for a proactive transition plan for students in a closing charter school, and that stipulate the steps to be taken for the fiscal dissolution of the school.

An amendment is proposed to the definition of “streamline tenure” for grammatical improvement.

The Department proposes to delete the definition for “streamline tenure removal,” the process by which an employee who has obtained streamline tenure can be dismissed or reduced in compensation as the Department will be proposing new guidelines for streamline tenure removal.

An amendment is proposed to the definition of “structured interview” to remove the requirement that a structured interview only takes place during the first three years of a charter. This gives the Department more flexibility in conducting ongoing monitoring and evaluations of charter schools.

Subchapter 2. Application and Approval; Reporting; Renewal; Probation and Revocation; Appeal; and Amendment Processes

The Department proposes to amend this section by deleting part of current N.J.A.C. 6A:11-2.1(b)1 and reconstituting it as new paragraphs N.J.A.C. 6A:11-2.1(b)2 and 3. The reconstituted N.J.A.C. 6A:11-2.1(b)2 and 3 specify a two-phased charter school application process. The two phased review process will improve the screening and assessment of new applications for charter schools. The two-tiered process will enable the Department to quickly eliminate applicants that lack the capacity to meet the Department’s high expectations for quality schools and to focus on applications that meet the Department’s criteria and demonstrate a clear capacity. The proposed amendments will change the timelines for the submission of charter school applications to ensure that there is sufficient time to conduct thorough and consistent evaluations and to ensure that the public, including the related school district(s), have time to provide feedback

The Department further proposes to recodify 6A:11-2.1(b)2 as 2.1(b)4 and clarify the requirements for a qualified founder to be consistent with the revised definition in 6A:11-1.2 of “eligible applicant.”

The Department further proposes to recodify 6A:11-2.1(b)3 as 6A:11-2.1(b)5 and to amend it by specifying the dates for the Department’s receipt of charter school applications. The revision is to ensure consistency with the proposed two-phased application review process and to provide sufficient time to thoroughly evaluate both the phase one and phase two applications.

The Department proposes to amend this section by deleting N.J.A.C. 6A:11-2.1(c) and (d) concerning addenda to the application requested by the Department and recodifying N.J.A.C. 6A:11-2.1(e) as the subsection (c), which is proposed for amendment to delineate the next step for applicants who qualify for phase two of the application process. The amendments are consistent with the proposed two-phase application review process and serves to further clarify the steps in the process.

The Department proposes to recodify N.J.A.C. 6A:11-2.1(f) as N.J.A.C. 6A:11-2.1(d) and to amend recodified subsection (d) to ensure that the review process for the superintendents of the districts of residence of the proposed charter schools provides ample time to review both phase one and phase two applications and that the timeline is consistent with the proposed two-phase application review process.

The Department proposes to recodify N.J.A.C. 6A:11-2.1(g) as N.J.A.C. 6A:11-2.1(e). An amendment is further proposed to recodified subsection (e) to clarify when the in-depth interview will take place in the proposed two-phase application process. In-depth interviews will be conducted with qualified applicants (those having passed the phase-one reviews), enabling the Department to focus the interviews on high-quality applicants.

The Department proposes to recodify N.J.A.C. 6A:11-2.1(h) as N.J.A.C. 6A:11-2.1(f). An amendment is proposed to recodified subsection (f) to maintain consistency with the proposed two-phase new charter application process and to provide additional time for a thorough review by adding a month to the response time. An additional change is made for grammatical improvement.

An amendment is proposed to create a new subsection at N.J.A.C. 6A:11-2.1(g) to add the requirement that applicants for the expedited round (October 15) must have “demonstrable experience” operating a charter school. This requirement will enable the Department to focus on successful operators who can replicate quality programs, who have a track record of success and who will be able to open within the expedited timeframe.

Proposed N.J.A.C. 6A:11-2.1(h) is a relocation of current N.J.A.C. 6A:11-2.1(j), concerning preparedness visits to prospective charter schools.

An amendment is proposed to N.J.A.C. 6A:11-2.1(i) to clarify that approval for a charter is contingent upon the satisfactory completion of the preparedness process. This ensures that the new charter schools have all policies, procedures, personnel, and facility requirements in place before being granted final approval. Further amendments to N.J.A.C. 6A:11-2.1(i) are proposed to paragraphs (i)10 and 11 to ensure that the preparedness checklist is relevant and thorough. The amendments require the submission of an organizational chart; the name of the school business administrator; the inclusion of required certifications and criminal background check status for the personnel list required; and a budget summary, budget narrative, and cash flow statement for the following fiscal year. Changes made to items N.J.A.C. 6A:11-2.1(i)3, 11, 12, and 13 are for stylistic purposes.

The Department proposes to recodify N.J.A.C. 6A:11-2.1(k) as N.J.A.C. 6A:11-2.1(j). An amendment is proposed to paragraph (j)2 to align the timeline for reporting enrollment to the changed timeline at N.J.A.C. 6A:11-2.1(f) for applicants seeking expedited action.

The Department further proposes to recodify N.J.A.C. 6A:11-2.1(l) as N.J.A.C. 6A:11-2.1(k). An amendment is proposed to this subsection to require that new schools must pass the preparedness visit to ensure all policies, procedures, personnel, and facility requirements are in place before being granted final approval.

The Department proposes to recodify N.J.A.C. 6A:11-2.1(m) as subsection (l) to accommodate the new subsections.

N.J.A.C. 6A:11-2.2 Reporting

An amendment is proposed to N.J.A.C. 6A:11-2.2(a) to clarify that the yearly report is a part of an annual review process, to emphasize that it is not just a document to be submitted for compliance. Other amendments to this subsection are for stylistic purposes.

An amendment is proposed to subsection N.J.A.C. 6A:11-2.2(a)1 that replaces “description” with “evidence.” The intent is to make the annual report outcome oriented

and aligned with the expectations of the Performance Frameworks, rather than a subjective narrative response.

An amendment is proposed to N.J.A.C. 6A:11-2.2 (a)1i to link the goals and objectives in the annual report to the goals and objectives established by the Performance Framework. This provides for consistent evaluation of charter schools against high-quality performance standards.

An amendment is proposed to N.J.A.C. 6A:11-2.2(a)1ii to clarify that the annual report must include evidence of compliance with the School Ethics Act and Open Public Meetings Act.

Amendments are further proposed to N.J.A.C. 6A:11-2.2(a)1iii to delete reference to the delivery of an education program as it is not consistent with an evidence-based response; to N.J.A.C. 6A:11-2.2(a)1iii and iv for stylistic purposes; and to streamline the contents of the report by deleting N.J.A.C. 6A:11-2.2(a)1vi and vii, which relate to public relations efforts, student admissions policies, and the staff recruitment plan that are not relevant to the educational outcome focus of the annual report. It is proposed that N.J.A.C. 6A:11-2.2(a)2iv, requiring that the report include a calendar for the upcoming school year, be relocated to N.J.A.C. 6A:11-2.2(a)1vi for clarity.

The Department proposes to delete N.J.A.C. 6A:11-2.2(a)2i and v as they are not deemed relevant to the evaluative purposes of the annual report. The subparagraphs required that the report include copies of resolution of the board of trustees naming the charter school's lead person, affirmative action officer, Section 504 officer, and Title IX coordinator. Amendments are proposed to N.J.A.C. 6A:11-2.2(a)2ii and iii to recodify the subparagraphs pursuant to deletion of N.J.A.C. 6A:11-2.2(a)2i. Additional grammatical amendments are proposed to this subsection.

At N.J.A.C. 6A:11-2.2(b), which lists documentation to be submitted annually to the Commissioner by the board of trustees, the Department proposes to amend N.J.A.C. 6A:11-2.2(b)1, 2, 5, and 6 by adding "if the charter school has changed facilities" to eliminate unnecessary paperwork. Other amendments are proposed to N.J.A.C. 6A:11-2.2(b)6 and 7 for stylistic purposes.

N.J.A.C. 6A:11-2.3 Renewal of charter

An amendment is proposed to N.J.A.C. 6A:11-2.3(b)1 to provide the Commissioner with flexibility in determining when a renewal application will be required. The amendment would allow the Commissioner to prescribe a date for submission of a renewal application other than that specified in the paragraph, with no less than 30 days notice. Such flexibility will enable the Department to structure the renewal process to address the needs and circumstances of each charter school in its renewal year.

The Department proposes to add new N.J.A.C. 6A:11-2.3(b)2, which will enable the Commissioner to revoke a charter for not meeting established standards in a school's charter or in the Performance Framework. This will ensure the maintenance of high-quality performance standards for all charter schools.

The Department proposes to amend N.J.A.C. 6A:11-2.3(b)3 through 9 to recodify the paragraphs pursuant to the addition of paragraph (b)2. Additional amendments are proposed to the paragraphs for grammatical and stylistic purposes.

An amendment is proposed to add new N.J.A.C. 6A:11-2.3(b)11 to include a charter school's educator evaluation system as part of the criteria for renewal. This aligns with the Educator Effectiveness Task Force recommendations for improving student achievement by ensuring that charter schools have effective teacher evaluation systems.

The Department proposes an amendment to N.J.A.C. 6A:11-2.3(c) to provide flexibility to the Commissioner in responding to renewal applications. The amendment would allow the Commissioner to prescribe a date for notification of the granting or denial of renewal other than that specified in the subsection. This will ensure that sufficient time is given to renewal decisions.

N.J.A.C. 6A:11-2.4 Probation and revocation of charter

The Department proposes to amend N.J.A.C. 6A:11-2.4(a) to provide the Commissioner with flexibility in the amount of time allotted to a school that has been placed on probation to complete a required remedial plan. The amendment provides that probationary status would be for a period of time as determined by the Commissioner, replacing the 90-day period currently specified. This amendment enables the Department to make decisions based on individual school circumstances.

An amendment is proposed to N.J.A.C. 6A:11-2.4(a)3 to clarify that the activities undertaken by a charter school in probationary status are a part of the approved remedial plan.

An amendment is proposed to N.J.A.C. 6A:11-2.4(a)4 to require evidence that the terms of the probation have been met and to provide to the Commissioner discretion in determining if the evidence is sufficient.

An amendment is proposed to add N.J.A.C. 6A:11-2.4(a)6 to give the Commissioner the ability to revoke a charter if the remediation plan is deemed to be insufficient, and to add a phrase indicating that the charter can be revoked if the terms of the probation have not been met.

The intent of the amendments to N.J.A.C. 6A:11-2.4(a) is to maintain high standards of quality in the performance of charter schools by ensuring that struggling schools either sufficiently improve their standards of performance or cease operation. Additional amendments are proposed to N.J.A.C. 6A:11-2.4(a)5 for stylistic and grammatical purposes.

The Department proposes to amend N.J.A.C. 6A:11-2.4(b) and (b)1 and 2 for grammatical and stylistic purposes.

An amendment is proposed to N.J.A.C. 6A:11-2.4(b)3 to give the Commissioner the flexibility to revoke a charter for schools that have not been placed on probation to maintain the integrity of the charter school program. The amendment also would give the Commissioner the

option of closing schools with academic, legal, compliance, or viability issues that are immediate and severe enough to warrant revocation.

An amendment is proposed to add N.J.A.C. 6A:11-2.4(b)4 to ensure that the performance standards are maintained as established in the Performance Framework by providing the Commissioner with the option to revoke a charter if the school fails to meet the performance standards or the standards set forth in its charter agreement.

The Department proposes to delete the existing N.J.A.C. 6A:11-2.4(c), which provides that the Commissioner shall notify a charter school in writing of the revocation and may allow a charter school up to a maximum of 60 days from the receipt of the revocation notice from the Commissioner to cease its operations, and replace it with a new subsection (c) that describes the steps that are to be undertaken when a charter school closes for any reason, including non-renewal, revocation, voluntary surrender, etc. The subsection establishes a set of procedures that will provide for a proactive transition plan for students in a closing charter school, and prescribes the steps to be taken for the fiscal dissolution of the school. The school closure protocols are based on best practices identified by nationally recognized charter authorizer organizations. Currently, there is no binding or consistent set of procedures that can protect student, parent, community, and school district interests when a charter school closes. The school closure protocols provide appropriate protection and minimize disruption to students' academic progress.

Proposed new N.J.A.C. 6A:11-2.4(c)1 and (c)1i and ii ensure that notification of all stakeholders happens as quickly as possible.

Proposed new N.J.A.C. 6A:11-2.4(c)2 requires schools to implement a comprehensive closure plan. N.J.A.C. 6A:11-2.4(c)2i(1) through (7) require the appointment of an independent trustee and describe the duties of that trustee to ensure ongoing functioning of the school until the closing date imposed by the Commissioner.

Proposed new N.J.A.C. 6A:11-2.4(c)2ii(1) and (2) ensure that parents are well informed of options and next steps for their children, and that students in the school undergoing closure procedures are enrolled in an appropriate school.

Proposed new N.J.A.C. 6A:11-2.4(c)iii(1) through (3) provide for the carefully monitored and secure transfer of student records.

N.J.A.C. 6A:11-2.5 Charter appeal process

Amendments are proposed to N.J.A.C. 6A:11-2.5 to replace a cross reference to an expired rule with a statutory citation regarding the filing of an appeal.

N.J.A.C. 6A:11-2.6 Amendment to charter

An amendment is proposed to add new N.J.A.C. 6A:11-2.6(a)1 to provide examples of what a charter school may amend its charter for. This subsection provides charter schools with greater flexibility in expanding the number of high-quality seats that can be made available.

An amendment is proposed to recodify N.J.A.C. 6A:11-2.6(a)1 as paragraph (a)2 to accommodate the new paragraph. An amendment is proposed to recodified N.J.A.C. 6A:11-2.6(a)2ii to change the date by which charter schools are to submit amendment requests from October 15 to February 1. The October 15 date precludes new charter schools from submitting an amendment as it is too soon after the opening of school for the Department to determine if an amendment is feasible.

The Department proposes to delete existing N.J.A.C. 6A:11-2.6(a)2, which provides that the charter amendment shall not change the mission, goals, and objectives of a charter school, as it restricts the types of amendments charter schools can request and runs counter to the Department's goal of enabling charter schools to continuously improve and grow quality programs.

An amendment is proposed to N.J.A.C. 6A:11-2.6(b) to ensure that performance evaluation data is considered when the Commissioner is assessing the feasibility of a charter school's request for an amendment.

An amendment is proposed to N.J.A.C. 6A:11-2.6(c) to provide more time (from 21 days to 60 days) for school district boards of education to comment on a proposed amendment to a school's charter.

Subchapter 3. School Ethics Act

N.J.A.C. 6A:11-3.1 Board of trustees and administrators

Amendments are proposed to N.J.A.C. 6A:11-3.1(c) and (d) for stylistic and grammatical purposes.

Subchapter 4. Program Implementation

N.J.A.C. 6A:11-4.2 Student records

An amendment is proposed to N.J.A.C. 6A:11-4.2(c) to update the chapter heading of N.J.A.C. 6A:32 cross-referenced therein.

N.J.A.C. 6A:11-4.3 Student attendance

An amendment is proposed to N.J.A.C. 6A:11-4.3 for stylistic purposes.

N.J.A.C. 6A:11-4.4 Initial recruitment period

An amendment is proposed to N.J.A.C. 6A:11-4.4(b) to replace an obsolete rule cross-reference.

N.J.A.C. 6A:11-4.7 Limited English proficient students

Amendments are proposed to N.J.A.C. 6A:11-4.7 for stylistic purposes and to remove the wording restricting the requirement that a charter school provide an enrolled limited English proficient student with all required courses and support services to meet the Core Curriculum Content Standards to high school graduation standards to ensure that all limited English proficient students are adequately served, not just those in high school.

N.J.A.C. 6A:11-4.8 Students with educational disabilities

An amendment is proposed to N.J.A.C. 6A:11-4.8 for stylistic purposes.

N.J.A.C. 6A:11-4.11 Board of trustees and Open Public Meetings Act

An amendment is proposed to N.J.A.C. 6A:11-4.11(c) for stylistic purposes.

N.J.A.C. 6A:11-4.12 Equity in education

The Department proposes to amend this subsection by including the chapter heading of N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and amending the title of the Individuals with Disabilities Education Act by updating the year to 2004. Other amendments to this subsection are proposed for stylistic purposes.

N.J.A.C. 6A:11-4.13 Financial operations of a charter school

Amendments are proposed to N.J.A.C. 6A:11-4.13 to replace an obsolete rule cross-reference and for stylistic purposes.

N.J.A.C. 6A:11-4.14 Charter school operation

The Department proposed to add new N.J.A.C. 6A:11-4.14, consisting of N.J.A.C. 6A:11-4.14(a), which requires charter schools to operate in accordance with their charters and public school law, and N.J.A.C. 6A:11-4.14(b), which provides the boards of trustees of charter schools the option to request exemptions from certain rules. This section is pursuant to N.J.S.A. 18A:36A-11, Operation of charter school, and is intended to promote the ability of charter schools to operate optimally and develop innovative and effective educational programs that might otherwise be constrained by New Jersey statute (excepting statutes related to assessment, testing, civil rights and student health and safety).

Subchapter 5. Certification Requirements for Staff

N.J.A.C. 6A:11-5.1 Certification

An amendment is proposed to N.J.A.C. 6A:11-5.1(b)2 to replace an obsolete rule cross-reference.

Subchapter 6. Streamline Tenure

N.J.A.C. 6A:11-6.1 Tenure acquisition

N.J.A.C. 6A:11-6.1, which defines streamline tenure pursuant to N.J.S.A. 18A:28-5(b), 18A:28-6, and 18A:17-2(b)2, is proposed for repeal and replacement with a new rule to redefine streamline tenure acquisition as per guidelines developed by the Commissioner. The Department is proposing the repeal of N.J.A.C. 6A:11-6.2 and 6.3 and within 30 days will be promulgating regulations for redefining streamline tenure procedures under separate rulemaking, to become effective on the same date as the proposed amendments in this same subchapter.

The Department is proposing to delete the current requirements at N.J.A.C. 6A:11-6.1 that define streamline tenure for all teaching staff members, janitors, and secretaries in a charter school after three consecutive academic years, together with employment at the beginning of the next succeeding academic year in accordance with the tenure acquisition criteria set forth in N.J.S.A. 18A:28-5(b), 18A:28-6, and 18A:17-2(b)2 because the requirements contradict N.J.S.A. 18A:36A-14.e. In addition, the Department is proposing to replace the current requirement with a new rule, pursuant to N.J.S.A. 18A:36A-14.e, that establishes that an employee of a charter school shall acquire streamline tenure pursuant to guidelines developed by the Commissioner and that the charter school shall specify the security and protection to be afforded to the employee in the guidelines developed by the Commissioner. The Department intends to promulgate these new guidelines within 30 days under a separate rulemaking. The Department intends for the guidelines for streamline tenure to become effective at the same time that these proposed rules will become effective.

N.J.A.C. 6A:11-6.2 Filing of and response to tenure charges

The Department is proposing to repeal this section, which describes the procedures for filing and responding to tenure charges, and as stated above will be promulgating guidelines to replace this section within 30 days.

N.J.A.C. 6A:11-6.3 Arbitration

The Department is proposing to repeal this section, which outlines the streamline tenure arbitration process, and as stated above will be promulgating guidelines to replace this section within 30 days.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments to, and repeals and new rules at, N.J.A.C. 6A:11, the rules governing charter schools, will increase accountability measures for charter schools, provide flexibility for charter schools to implement innovative programs, and enable the Department to have clear and consistent measures of academic, fiscal, and organizational performance throughout the charter life cycle. Currently, 27,000 students attend New Jersey charter schools, with the number increasing to approximately 37,000 by September, 2012. The proposed amendments, repeals, and new rules clarify processes for applications, renewal, oversight, and closure, and streamline effective practices for both new and existing quality charter operators,

while maintaining the commitment to ensuring that New Jersey parents have quality choice options.

Economic Impact

The proposed amendments, repeals, and new rules will have an impact on school districts that are affected by opening new charter schools, expansion of existing charter schools, and closure of under-performing charter schools. Efficiency will be further enhanced by the detailing of clear timelines for school district comment in relation to budgeting exigencies. Closure protocols detail the fiscal responsibility of charter schools going through the dissolution process and delineate the lines of communication between the charter school, the school district, and the Department.

Federal Standards Statement

The proposed amendments, repeals, and new rules will not be inconsistent with or exceed Federal standards or requirements since no such standards or requirements address the mechanisms prescribed in this chapter.

Jobs Impact

No jobs are expected to be generated or lost as a result of the proposed amendments, repeals, and new rules.

Agriculture Impact Statement

The proposed amendments, repeals, and new rules have no impact on the State agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because proposed amendments, repeals, and new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments, repeals, and new rules impact solely charter schools, which are New Jersey public schools, and district boards of education that have students enrolled in charter schools.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules have no impact of the average cost of housing. The amendments, repeals, and new rules concern charter schools.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules have no impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The amendments, repeals, and new rules concern charter schools.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6A:11-6.1, 6.2, and 6.3.

Full text of the proposed amendments and new rules follows (additions indicated in underline thus; deletions indicated in brackets [thus]):

CHAPTER 11. CHARTER SCHOOLS

SUBCHAPTER 1. GENERAL PROVISIONS

6A:11-1.1 Purpose

- (a) The purpose of this chapter is to provide the rules to govern the implementation of the Charter School Program Act, N.J.S.A. 18A:36A-1 et seq. The rules define the processes for; establishing and operating charter schools; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); implementing programs; certifying classroom teachers, principals and professional support staff; and applying streamline tenure for teaching staff members, janitors and secretaries. The rules for conducting the financial operations of the charter schools are set forth in the [finance and business services] fiscal accountability rules at N.J.A.C. 6A:[23-9]23A-22.
- (b) The rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner [of Education]. In addition, [these] the rules affect students who attend [the] charter schools, the parents and legal guardians of [these] the students, the district boards of education where [these] the students reside, the district

boards of education in which [the] charter schools are physically located and the people who [will] serve on the boards of trustees and on the staffs of [the] charter schools.

6A:11-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Administrator" means an employee of a charter school who:

1. Holds a position [which] that requires a certificate [that authorizes] authorizing the holder to serve as school administrator, principal or school business administrator;
2. Holds a position [which] that requires a certificate [that authorizes] authorizing the holder to serve as supervisor [and] who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services of a charter school; or
3. Holds a position [which] that does not require [that] the person to hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school.

"Annual review" means the yearly assessment by the Commissioner as to whether the charter school is meeting the goals of its charter.

"Application" means the New Jersey Charter School Application, which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

"Approval [of a charter]" means an endorsement by the Commissioner following the review of an eligible application by the Department [of Education] and contingent upon the receipt of necessary documentation in accordance with N.J.A.C. 6A:11-2.1[(h)](f).

"Board of trustees" means the public agents authorized by the State Board of Education to supervise and control a charter school.

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9 and 6A:[23-9]23A-22, and N.J.S.A. 18A:26-2.

"Charter agreement" means a written agreement between a charter school and the Commissioner that sets forth criteria the charter school shall be expected to satisfy, including, but not limited to, measureable performance goals and indicators in the charter school's Performance Framework.

"Charter school" means a public school [that is] operated under a charter granted by the Commissioner[,], that is independent of the district board of education and [that is] managed by a board of trustees.

"Demonstrable experience" means a record of success in engendering student growth and improving the academic performance of at-risk, English language learner, and special education students; and evidence of financial stability.

"District of residence" means the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school's district of residence.

["Early action" means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than January 15.]

"Educator evaluation system" means a system by which a charter school measures the effectiveness of an educator through a measurement of student learning growth and educator practice."

"Eligible applicant" means teaching staff members from anywhere in the State, parents of children attending the schools of the district [board] of [education] residence, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district [board] of [education] residence.

"Expedited action" means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than February 15.

"Final granting of a charter" means the written notification in which the Commissioner makes the charter effective as a result of all required documentation being submitted by the charter school and approved by the Department [of Education] in accordance with N.J.A.C. 6A:11-2.1[(h)](f), [(i)](h) and [(j)](i).

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:[23-2.1]23A-16.1.

"In-depth interview" means the performance assessment of the founders of a charter school during the application and approval process for a charter.

"Initial recruitment period" means the period during which there are the first outreach efforts by a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year.

"Lead person" means the person who performs the organizational tasks necessary for the operation of a charter school. Where a group of individuals shares [these] the organizational tasks, the person designated as responsible for completion of the tasks required by [these] the rules is the lead person.

"Monitoring" means an on-site review at a charter school to corroborate and augment the annual reports and to verify compliance with statutes, regulations and the terms of the charter.

"Non-resident district" means a school district outside the district of residence of the charter school.

"Non-resident student" means a student from a non-resident district attending a charter school.

["Panel of six permanent arbitrators" means the group which shall hear all streamline tenure cases. Three arbitrators shall be chosen by the New Jersey Education Association (NJEA) and three by the New Jersey School Boards Association (NJSBA). All arbitrators shall be from either the permanent panel of arbitrators of the American Arbitrators Association or the permanent panel of arbitrators of the Public Employees Relation Commission (PERC).]

"Performance Framework" means the standards that shall be used by the Department to evaluate the performance of each charter school that has signed a charter agreement. The Performance Framework shall be included in every charter agreement and posted on the Department's website. The academic performance section of the Performance Framework is aligned with the New Jersey Department of Education accountability measures as defined in the February, 2012 No Child Left Behind waiver of Adequate Yearly Progress measures granted by the United States Department of Education. Academic performance assessments include, but are not limited to, measurement of student achievement data in absolute terms based on Proficiency and Advanced Proficiency scoring in both Language Arts Literacy (LAL) and Math, in comparative terms against the LAL and Math scores of the district of residence and demographically similar (peer) schools, in terms of student achievement progress over time (individual student achievement over time as compared to similar scoring students), in terms of schoolwide growth

percentiles and subgroup growth percentiles based on standardized test scores over time, post-secondary readiness, including performance on and participation in national standardized tests and post-secondary enrollment, and all State and Federal accountability requirements. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the operations component consist of, but are not limited to, compliance with statutory requirements set forth in N.J.S.A. 18A:36C-1 et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; safe and secure learning environments pursuant to N.J.A.C. 6A:16, Programs to Support Student Services. The standards for the fiscal management section of the Performance Framework include the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting, and contain near-term indicators that include debt to asset ratio, total margin and cash flow measures, an sustainability indicators that include current ratio, unrestricted days cash on hand, enrollment variance and default on loans measures.

“Preparedness visit” means the on-site inspection by Department personnel that gauges readiness for school opening. The preparedness visit shall include a review of program, facility and fiscal documentation and interviews with board of trustee members and staff members of the proposed charter school to assess organizational leadership and capacity.

“Qualified applicant” means an applicant determined by the Department to have submitted an application in the first phase of the application process that met the charter school application

quality standards established by the Department.

“Qualified founder” means an individual who can establish a charter school pursuant to N.J.S.A. 18A:36A-4. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents.

"Region of residence" means contiguous school districts in which a charter school operates and is the charter school's district of residence.

"Renewal" means the granting of the continuation of a charter for a five-year period by the Commissioner following a comprehensive review conducted by the Commissioner.

"Resident student" means a student who resides in the area served by the district board of education that is the same as the district of residence of the charter school.

"Revocation" means the withdrawal of a charter [of a school] by the Commissioner from [the] a charter school's board of trustees [by the Commissioner].

“Satellite campus” means a school facility, located within a district with a priority school or a former Abbott District as of July 1, 2012, operated by a charter school under the school’s charter that is in addition to the facility identified in the charter school application or charter, if subsequently amended.

“School-closure protocols” means procedures established by the Commissioner for the revocation, non-renewal or surrender of a charter.

"School Ethics Act" means the statute N.J.S.A. 18A:12-21 et seq. designed to set standards to guide the conduct of school officials and ensure maintenance of those standards [in order] to ensure and preserve public confidence in the integrity of elected and appointed school board members and school administrators.

"School official" means a member of the board of trustees or an administrator of a charter school.

"School year" means July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year.

"Streamline tenure" means the tenure process for all charter school teaching staff members, janitors and secretaries who are either newly employed in a charter school or [who are] employed in a charter school while on leave from a district board[s] of education.

["Streamline tenure removal" means the process by which an employee who has obtained streamline tenure can be dismissed or reduced in compensation.]

"Structured interview" means the performance assessment of the accomplishments of a charter school [during the first three years of its charter] for renewal of the charter.

"Waiting list" means the document identifying the names of grade-eligible students with applications to a charter school pending acceptance for the subsequent school year, based upon the order of random selection from a lottery following a recruitment period.

SUBCHAPTER 2. APPLICATION AND APPROVAL[,]; REPORTING[,]; RENEWAL[,]; PROBATION AND REVOCATION[,]; APPEAL; AND AMENDMENT PROCESSES

6A:11-2.1 Application and approval process

- (a) The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.
- (b) An eligible applicant for a charter school shall:
 - 1. Complete the New Jersey Charter School Application, which shall be annually disseminated by the Department [of Education] no later than August 31 of each year, [and which includes a description of the areas listed in N.J.S.A. 18A:36A-5 and a description of the following as each relates to the charter school:
 - i. Mission;
 - ii. Goals and objectives;
 - iii. Needs analysis;
 - iv. Founders;
 - v. Student discipline policy and expulsion criteria;

- vi. Special populations;
- vii. Transportation;
- viii. Self-evaluation process;
- ix. Insurance;
- x. Timetable; and
- xi. Educational equity and access.]

2. The application process shall be conducted in two phases: phase one and phase two. The phase one application shall include in an executive summary the following information:

- i. Name of the proposed charter school;
- ii. Mission;
- iii. Educational program overview;
- iv Applicant and founder information;
- v. Enrollment and admission information;
- vi. Demonstration of need; and
- vii. Community and parent involvement.

3. The Commissioner shall notify an applicant whether they have been approved or denied for “qualified applicant” status upon completion of the phase one review.

- i. To participate in phase two, qualified applicants shall be required to submit the phase two application within 30 days of the date of notification of eligibility by the Department.
- ii. A qualified applicant is one that has submitted an application that has a clear, focused, and results-oriented mission statement that aligns with all parts of the

application; demonstrates understanding of the population that the school is likely to serve; has an educational program that is likely to be effective for the student population; has strong and diverse leadership; and has strong financial planning and management.

iii. The phase two application shall include the following information:

(1) Educational program;

(2) Goals and objectives;

(3) At-risk populations;

(4) Staffing information;

(5) Financial plan;

(6) Governance and organizational plan;

(7) Facilities;

(8) Daily and annual schedule;

(9) Requested waivers; and

(10) All required documentation as set forth in the phase two application. Such documentation shall include, but not be limited to: course and curriculum outlines, graduation requirements, school scheduling information, professional backgrounds of administrators and staff, professional development and evaluation plans, an organizational chart, and documentation of fiscal and legal compliance.

iv. The Commissioner shall notify a qualified applicant about whether it has been invited to participate in an in-depth interview with the Commissioner or his or her designee. Such interviews will take place within eight to 10 weeks of receipt of phase two applications.

[2.]4. If seeking to operate a charter school with a region of residence, the charter school shall:

- i. Include as qualified founders [a teaching staff member or a parent with a child attending a school of the district board of education in accordance with N.J.S.A. 18A:36A-4(a) from each of the contiguous district boards of education that comprise the region] at least one eligible applicant; and
- ii. Describe its plan to ensure the enrollment of a cross section of the school-age population of the region of residence, including racial and academic factors. This plan shall include apportionment of available space from each of the district boards of education that comprise the region of residence.

[3.]5. [Submit] For the March 31 application round, submit a hand-delivered or mailed copy of the completed phase one application to the Commissioner, the respective executive county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school no later than 4:15 [P.M.] p.m. on March 31. If March 31 falls on a weekend, the phase one application is due no later than 4:15 [P.M.] p.m. on the first subsequent work day. [The Department of Education will review for fast track approval through early action all applications submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the application is due] For the expedited action round, applications must be submitted no later than 4:15 p.m. on October 15. If October 15 falls on a weekend, the phase one application for expedited action is due no later than 4:15 p.m. on the first subsequent work day.

Phase two applications must be submitted no later than 4:15 [P.M.] p .m. on the [first subsequent work day] designated due date.

[(c)] Following the initial review of the application, the Department of Education may request subsequent information as addenda to the application.

(d) The applicant shall submit addenda to the Department of Education and the district board(s) of education or State district superintendents of the school district(s) of residence of the proposed charter school.]

[(e)](c) The Department [of Education] shall review the [addenda and may seek clarifying information from the applicant] phase one application. Qualified applicants [satisfying the standards for evaluation] will be asked to complete the phase two application.

[(f)](d) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review both the phase one and phase two applications [and addenda], if submitted.

1. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [60] 30 days of receipt of the phase one applications, however, if a district board of education or State district superintendent is unable to respond to the phase one application in this timeframe, upon good cause shown to the Commissioner, comments may be submitted on the phase one application along with comments provided on the phase two application.

2. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [30] 60 days of receipt of the [addenda] phase two applications.

[(g)](e) [The] Following review of phase two applications, the Commissioner or

designee(s) shall conduct an in-depth interview with [each eligible applicant for a charter school] qualified applicants.

[(h)](f) The Commissioner shall notify [eligible] applicants regarding approval or denial of applications no later than [January] February 15 for applicants seeking approval through [early] expedited action and no later than September 30 for all other applications. The notification to eligible applicants [who are] not approved as charter schools shall include reasons for the denials.

(g) For phase one of the October 15 expedited application, the Department will review applications received from founders with demonstrable experience operating an education institution. The application review process for phase two will proceed as set forth in (d) and (e) above.

(h) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.

(i) The Commissioner may approve an application for a charter, which shall be effective when all necessary documents and information are received by the Commissioner and following satisfactory completion of the preparedness visit as determined by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of:

1. A directory of the current members of the board of trustees;
2. The bylaws of the board of trustees;
3. The [Certificate of Incorporation] certificate of incorporation;
4. The Federal Employer Identification Number;

5. The Credit Authorization Agreement for Automatic Deposits;
6. The lease, mortgage or title to its facility;
7. The certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:23-2;
8. The sanitary inspection report with satisfactory rating;
9. The fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;
10. An organizational chart and [A] a list of the lead person, school business administrator, teachers and professional support staff including required certifications and criminal background check status;
11. [The Authorization for Emergent Hiring Pending Completion of Criminal History Check form or Criminal History Approval letter for each employee of the charter school;]
A budget summary, budget narrative, and cash flow statement for the following fiscal year, based on the most recent enrollment projections;
12. Evidence of a uniform system of double-entry bookkeeping that is consistent with [generally accepted accounting principles (GAAP)];
13. The resolution of the board of trustees naming the [Affirmative Action Officer] affirmative action officer, the Section 504 [Officer] officer and the Title IX [Coordinator] coordinator;
14. Evidence of enrollment of at least 90 percent of maximum enrollment, as verified by student registrations signed by parent/guardian(s); and
15. Documentation that ensures compliance with all applicable Federal and State regulations and statutes.

[(j) Prior to final granting of the charter, a preparedness visit to prospective charter schools

will be conducted by the Department.]

[(k)](j) Prior to the granting of the charter, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(a) and (b). The charter school shall submit data for the assessment:

1. In a format prescribed by the Commissioner; and
2. No later than 4:15 [P.M.] p.m. on February 15, or March 15 for charter schools applicants seeking approval through expedited action.

[(l)](k) All statutorily required documentation shall be submitted to the Department [of Education] by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (i) above is submitted and approved by the Department [of Education] no later than July 15 and following satisfactory completion of the preparedness visit as determined by the Commissioner.

[(m)] A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.]

[(l)] A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.

6A:11-2.2 Reporting

(a) To facilitate the annual review, each charter school shall submit an annual report to the local board of education, the executive county superintendent and the Commissioner in the form prescribed by the Commissioner. The board of trustees of a charter school shall

submit an annual report no later than 4:15 [P.M.] p.m. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective executive county superintendent [of schools] and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day.

1. The report in a format prescribed by the Commissioner must include, but is not limited to [a description] evidence of the following:
 - i. [The achievement of the school's] The school is achieving the mission, goals and objectives of its charter as measured against the Performance Frameworks;
 - ii. [The efficiency in the governance and management of the school] The board of trustees operates in accordance with the School Ethics Act, N.J.S.A. 18A:12-23 and the Open Public Meetings Act N.J.S.A. 10:4-6 et seq;
 - iii. [The attainment of the New Jersey Core Curriculum Content Standards and the delivery of an educational program leading to high student academic achievement] Curriculum that is compliant with the Core Curriculum Content Standards;
 - iv. Statewide [Assessment Program] assessment program results and local assessment results of students; and
 - v. [The degree of parental] Parental and community involvement in the school; and
 - vi. A calendar for the upcoming school year;

- [vi. The school's public relations and outreach efforts; and
 - vii. The student admissions policies and staff recruitment plan.]
- 2. The report must include a copy of the following:
 - [i. The resolution of the board of trustees naming the lead person of the charter school;]
 - [i]i. A directory of the current members of the board of trustees; and
 - [i]ii. Amendments to the bylaws of the board of trustees adopted during the previous year[;].
 - [iv. A calendar for the upcoming school year; and
 - v. The resolution of the board of trustees naming the Affirmative Action Officer, the Section 504 Officer and the Title IX Coordinator.]
- 3. The board of trustees of a charter school shall make the annual report available to the parents or guardians of the students enrolled in the charter school.
- 4. The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the annual report of the charter school to the Commissioner by October 1.
- (b) The board of trustees of a charter school shall submit documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner. The documentation shall include, but is not limited to, copies of:
 - 1. A new lease, mortgage or title to its facility if the charter school has changed facilities;
 - 2. A valid certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:32-2 if the charter school has changed

facilities;

3. An annual sanitary inspection report with satisfactory rating;
 4. An annual fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;
 5. A list of the lead person, teachers and professional support staff if any charter school staff has changed;
 6. The [Authorization for Emergent Hiring Pending Completion of Criminal History Check] authorization for emergent hiring pending completion of criminal history check form or [Criminal History Approval] criminal history approval letter for each employee of the charter school if any charter school staff has changed; and
 7. Evidence of a uniform system of double-entry bookkeeping that is consistent with [generally accepted accounting principles (GAAP)].
- (c) On an annual basis, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(b). The charter school shall submit data for the assessment:
1. In a format prescribed by the Commissioner; and
 2. No later than 4:15 P.M. on January 15.

6A:11-2.3 Renewal of charter

- (a) The Commissioner may grant a five-year renewal of a charter following the initial four-year charter.
- (b) The Commissioner shall grant or deny the renewal of a charter upon the comprehensive

review of the school including, but not limited to:

1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school no later than 4:15 [P.M.] p.m. on October 15 of the last school year of the current charter, or on a date prescribed by the Commissioner with no less than 30 days notice;
2. If the charter school failed to meet any standards set forth in its charter agreement or the Performance Framework in a school's charter;
3. The review of a charter school's annual reports pursuant to N.J.A.C. 6A:11-2.2(a);
- [3.] 4. Comments of the annual reports from the district board(s) of education or State district superintendent(s) of the district of residence of the charter school;
- [4.] 5. Student performance on the Statewide [Assessment Program] assessment program pursuant to N.J.A.C. 6A:8-4.1;
- [5.] 6. Monitoring of the charter school by the executive county superintendent;
- [6.] 7. Monitoring of the charter school by the Commissioner or designee(s);
- [7.] 8. The annual assessments of student composition of the charter school;
- [8.] 9. The recommendation of the district board(s) of education or State district superintendent(s) of the district of residence forwarded to the Commissioner within 30 days of receipt of the renewal application; [and]
- [9.] 10. A structured interview with the Commissioner or designee(s) with:
 - i. A member of the charter school board of trustees;
 - ii. The lead person of the charter school;
 - iii. A teacher at the charter school; and

iv. A parent or other representative of the charter school[.]; and

11. The review of the charter school's educator evaluation system.

- (c) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February 28 of the last school year of the current charter, or on a date prescribed by the Commissioner. The notification to a charter school that is not granted a renewal shall include reasons for the denial.

6A:11-2.4 Probation and revocation of charter

- (a) The Commissioner may place a charter school on probationary status for a period of [90 days] time as determined by the Commissioner to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes or regulations.
1. The Commissioner shall determine the date on which the probationary status will begin and notify the charter school of such date.
 2. The charter school must submit a remedial plan to the Commissioner within 15 days from the receipt of the notice of probationary status.
 3. The charter school must provide the specific steps, within the remedial plan, that it shall undertake to resolve the condition(s) not fulfilled and/or the violation(s) of its charter.
 4. The Commissioner may remove the probationary status of a charter school if the [remedial plan is implemented] school provides sufficient evidence, as determined by the Commissioner, that the terms of the probation have been met and the causes for the probationary status are corrected.
 5. The Commissioner may grant [an] extensions to the probationary status where

warranted and extend the probationary period [for an additional 90 days] if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.

6. The Commissioner may revoke the charter if the remedial plan is deemed to be insufficient or if probation terms have not been met.

(b) The Commissioner may revoke a school's charter following review by the Department [of Education] for one or more of the following reasons:

1. Any condition imposed by the Commissioner in connection with the granting of the charter [which] that has not been fulfilled by the school; [or]
2. Violation of any provision of its charter by the school[.];
3. Failure of the remedial plan to correct the conditions [which] that caused the probationary status. The Commissioner may place a school on probation before charter revocation, but probationary status is not necessary for revocation; or
4. Failure of the charter school to meet any standards set forth in its charter agreement or the Performance Framework.

[(c) The Commissioner shall notify a charter school in writing of the revocation and may allow a charter school up to a maximum of 60 days from the receipt of the revocation notice from the Commissioner to cease its operations.]

(c) Upon the decision of the Commissioner to revoke or not renew a school's charter, or upon the decision of the board of trustees to surrender a charter, the board of trustees must implement school closure protocols including, at a minimum:

1. The board of trustees, within 48 hours of receipt of notification, shall:
 - i. Provide in writing to the Commissioner a complete list of names and addresses of all students and staff currently enrolled and working in the

school, so the Commissioner may send the appropriate notice to the parents or guardians and staff;

- ii. Notify in writing all administrators, staff, parents, guardians, students and special education providers.

2. Implement a comprehensive closure plan:

- i. Within 10 business days of receipt of notification, the board of trustees must appoint an independent trustee whose appointment is subject to the approval of the Commissioner. Duties of the independent trustee include, but are not limited to, the following:

- (1) Review budget to ensure that funds are sufficient to operate the school through the end of the school year, if applicable, and terminate any spending deemed non-essential to the operation of the school;
- (2) Maintain all financial records;
- (3) Notify all entities doing business with the school;
- (4) Notify retirement and benefits systems in which the school's employees participate;
- (5) Inventory and evaluate assets;
- (6) Ensure appropriate payment of outstanding debt; and
- (7) Ensure appropriate distribution of remaining assets.

- ii. Provide for appropriate enrollment:

- (1) District(s) of residence of a charter school undergoing closure proceedings must, in cooperation with the Department and the charter school, establish dates and times for parents and guardians

to enroll students; and

- (2) The charter school must make all reasonable efforts to ensure that students enrolled at the time of the receipt of the closure notification have taken action to enroll in another school.

iii. Ensure transfer of student records:

- (1) The charter school shall update all student records and have them available upon request for review by the Department;
- (2) The charter school shall document the transfer of all records, including the number of general and special education records to be transferred, and the printed name and signature of the charter school representative releasing the records; and
- (3) School districts receiving transferred students shall provide to the appropriate county office of education printed name(s) and signature(s) of representative(s) of the district(s) certifying receipt of the student records.

6A:11-2.5 Charter appeal process

An eligible applicant for a charter school, a charter school or a district board of education or State district superintendent of the district of residence of a charter school may file an appeal according to [N.J.A.C. 6A:4-2.5] N.J.S.A. 18A:6-9.1.

6A:11-2.6 Amendment to charter

- (a) A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter.

1. Examples of what a charter school may seek an amendment for include, but are not limited to, the following:

- i. Expanding enrollment;
- ii. Expanding grade levels;
- iii. Changing or adding a district or region of residence; or
- iv. Opening a new satellite campus;

[1.]2. The board of trustees of a charter school shall submit in the form of a board resolution the amendment request to the Commissioner and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. The amendment request shall:

- i. Include the applicable revised pages to the approved New Jersey Charter School Application; and
- ii. Be made by [October 15] February 1 of the previous school year to increase enrollment in the subsequent school year.

[2. The amendment shall not change the mission, goals and objectives of a charter school.]

(b) The Department [of Education] shall determine whether the amendments are eligible for approval and shall evaluate the amendments based on N.J.S.A. 18A:36A-1 et seq. and this chapter. The Commissioner shall review a charter school's performance data in assessing the need for a possible charter amendment.

(c) The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within [21] 60 days of receipt of the resolution of the board of trustees.

(d) The Commissioner may approve or deny amendment requests of charter schools and shall

notify charter schools of decisions. If approved, the amendment becomes effective immediately unless a different effective date is established by the Commissioner.

SUBCHAPTER 3. SCHOOL ETHICS ACT

6A:11-3.1 Board of trustees and administrators

- (a) For the purposes of implementation of the Charter School Program Act, the members of the board of trustees of a charter school shall be school officials as defined in the School Ethics Act (N.J.S.A. 18A:12-23). The trustees shall comply with the provisions of the School Ethics Act and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.
- (b) Each administrator shall hold the certificate or perform the tasks as defined in N.J.A.C. 6A:11-1.2 and in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated thereto at N.J.A.C. 6A:28.
- (c) Each school official shall file [the Financial and Personal/Relative Disclosure Statements] financial and personal/relative disclosure statements annually on or before April 30 or within 30 days of his[or]her election or appointment in accordance with N.J.A.C. 6A:28-1.5.
- (d) Each member of the board of trustees of a charter school shall, during the first year of his or her first term on the board, complete a training program prepared and offered by the New Jersey School Boards Association [which] that shall include in its content instruction relative to the board member's responsibilities under the School Ethics Act in accordance with N.J.A.C. 6A:28-1.6.

SUBCHAPTER 4. PROGRAM IMPLEMENTATION

6A:11-4.1 Local education agency

A charter school shall be a local education agency only for the purpose of applying for Federal entitlement and discretionary funds.

6A:11-4.2 Student records

- (a) A district board of education or a State district superintendent shall forward to the lead person of a charter school records of a student transferring to the charter school in accordance with N.J.A.C. 6A:32-7.
- (b) The lead person of a charter school shall forward to the district board of education or the State district superintendent records of a student transferring from the charter school in accordance with N.J.A.C. 6A:32-7.
- (c) A charter school shall create, maintain and dispose of student records in accordance with N.J.A.C. 6A:32, [Student Records] School District Operations.

6A:11-4.3 Student attendance

A charter school shall record in the school register student attendance [in the school register] during school hours on each day that the school is in session in accordance with N.J.A.C. 6A:32-8.1(c).

6A:11-4.4 Initial recruitment period

- (a) No later than January 15 of subsequent school years, a charter school shall submit to the Commissioner the number of students by grade level, gender and race/ethnicity from each district selected for enrollment from its initial recruitment period for the following

school year.

- (b) The number of students by grade level from each district selected for enrollment from the initial recruitment period of a charter school is used to establish a per_pupil amount for the specific grade level at the charter school rate in accordance with N.J.A.C. 6A:[23-9.4]23A.
- (c) A charter school may conduct subsequent recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

6A:11-4.5 Waiting list

- (a) A charter school shall maintain a waiting list for admission of grade-eligible students that:
 - 1. Begins with the close of the annual initial recruitment period and first random selection process and ends with the close of the subsequent school year; and
 - 2. Is divided into two groups: students from the district of residence or region of residence and students from non-resident districts.
- (b) During the recruitment period, a charter school shall notify parents that their children's names remain on the waiting list for enrollment for the subsequent school year only.

6A:11-4.6 Age eligibility for kindergarten

- (a) A charter school shall enroll a student selected for admission to kindergarten based on the student reaching the age of five in that school year by:
 - 1. October 1 in accordance with N.J.S.A. 18A:38-5; or
 - 2. A date later than October 1 that is established by the district board of education in which the student resides.

6A:11-4.7 Limited English proficient students

A charter school shall provide an enrolled limited English proficient student with all required courses and support services to meet the [New Jersey Core Curriculum Content Standards for high school graduation] Core Content Curriculum Standards in accordance with N.J.S.A. 18A:7A-4 and 18A:7A-5 and N.J.A.C. 6A:15, Bilingual Education.

6A:11-4.8 Students with educational disabilities

A charter school shall provide an enrolled student with educational disabilities with a free, appropriate public education in accordance with the Individuals with Disabilities Education Act, Part B (IDEA-B) at 20 U.S.C. §§ 1400 et seq., 34 C.F.R. 300 et seq., N.J.S.A. 18A:36A-11(b) and N.J.A.C. 6A:14, Special Education.

6A:11-4.9 Home instruction for students

A charter school shall provide home instruction due to temporary illness or injury for an enrolled student in accordance with N.J.A.C. 6A:16-10.1.

6A:11-4.10 Pupil transportation

In accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1, a district board of education shall provide transportation or aid in lieu of transportation to a student in kindergarten through grade 12 who attends a charter school.

6A:11-4.11 Board of trustees and Open Public Meetings Act

(a) A charter school shall constitute its board of trustees no later than April 15 of the year in

which its application is approved.

- (b) The board of trustees of a charter school shall operate in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.
- (c) The board of trustees shall send a copy of all meeting notices and meeting minutes to the respective executive county superintendent of schools.
- (d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

6A:11-4.12 Equity in education

A charter school shall comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20[,]; N.J.S.A. 10:5-1 et seq.[,]; N.J.A.C. 6A:7, Managing for Equality and Equity in Education; Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§ 2000d et seq. and 2000e et seq., respectively[,]; Title IX of the Education Amendments of 1972 at 20 U.S.C. §§ 1681 et seq.[,]; Section 504 of the Rehabilitation Act of 1973 at 29 U.S.C. § 792[,]; the Americans with Disabilities Act of 1990 at 42 U.S.C. §§ 12101 et seq.; and the Individuals with Disabilities Education Act [(IDEA--B)] of [1997] 2004 at 20 U.S.C. §§ 1400 et seq., and 34 C.F.R. 300 et seq.

6A:11-4.13 Financial operations of a charter school

A charter school shall be subject to the provisions of [the finance and business services rules,] N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures.

6A:11-4.14 Charter school operations

- (a) A charter school shall operate in accordance with its charter and the provisions of law

and regulation that govern other public schools.

- (b) The board of trustees of a charter school may request that the Commissioner exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the Commissioner that the exemption will advance the educational goals and objectives of the school.

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

6A:11-5.1 Certification

- (a) All classroom teachers, principals and professional support staff employed by the board of trustees of a charter school shall hold appropriate New Jersey certification in accordance with N.J.A.C. 6A:9-5.1.
- (b) The board of trustees of a charter school shall employ or contract with:
1. A lead person or another person who holds a New Jersey standard school administrator or supervisor certificate or a New Jersey standard or provisional principal certificate in accordance with N.J.A.C. 6A:9-8.6 to direct and guide the work of instructional personnel including, but not limited to, the supervision and evaluation of staff and the development and implementation of curriculum; and
 2. A person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9-12.7 and 6A:23[-9.3]A to oversee fiscal operations of the charter school.

SUBCHAPTER 6. STREAMLINE TENURE

6A:11-6.1 Tenure acquisition

[All teaching staff members, janitors and secretaries shall acquire streamline tenure in a charter school after three consecutive academic years, together with employment at the beginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.] An employee of a charter school shall acquire streamline tenure pursuant to guidelines developed by the Commissioner. The charter school shall specify the security and protection to be afforded to the employee in accordance with the Commissioner's guidelines.

[6A:11-6.2 Filing of and response to tenure charges

(a) Once streamline tenure is acquired, an employee of a charter school shall not be dismissed or receive reduced compensation except for inefficiency, incapacity, conduct unbecoming or other just cause.

(b) In all instances of the filing and certification of streamline-tenure charges, except inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charge(s), executed under oath, accompanied by a supporting statement of evidence with the board of trustees.¹⁴
2. The board of trustees shall transmit the charge(s) to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.
3. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the streamline-tenure charge(s).

4. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

5. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

6. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

7. If the affected employee wishes to contest the certified charge(s) filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

(c) In instances of the filing and certification of streamline-tenure charges for inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charge(s), executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charge(s) to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. Upon completion of the 90-day corrective action period, the lead person of the charter school shall notify the board of trustees in writing whether the inefficiencies were corrected.

4. The board of trustees shall transmit the notification to the affected streamline-tenured employee within three work days of the date that it was noticed. Proof of mailing or hand

delivery shall constitute proof of transmittal.

5. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the inefficiency charge(s).

6. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.¹⁵

7. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

8. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

9. If the affected employee wishes to contest the certified charge(s) filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.]

[6A:11-6.3 Arbitration

(a) If the streamline-tenured employee contests the charge(s), an arbitrator from a panel of six permanent arbitrators shall be assigned by the Commissioner to determine the case. All employees who acquire streamline tenure in a charter school shall be subject to dismissal or a reduction in compensation only upon the determination of an arbitrator.

1. Arbitrators on the panel shall be listed in alphabetical order and assigned to hear

streamline tenure cases on a rotating basis in the order that cases are filed with the Commissioner's office.

2. The hearing shall be held before the arbitrator within 30 days of the Commissioner's assignment of the arbitrator to the case.

3. All necessary discovery procedures shall be completed 15 days prior to the hearing. At least 10 days prior to the hearing, information and witness lists shall be exchanged between the parties.

4. The arbitrator shall render a decision within 20 days of the closing of the hearing.

(b) The decision of the arbitrator is final and binding and cannot be appealed to either the Commissioner or the State Board of Education. Said decision shall be subject to judicial review and enforcement as provided pursuant to N.J.S.A. 2A:24-7 through 24-10.

(c) The board of trustees of the charter school shall forward arbitration decisions to the State Board of Examiners.]